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SEP 2 3 2013

Ref: 8EPR-N

J. Signe Snortland
Bureau of Reclamation
Dakotas Area Office
304 East Broadway Avenue
P.O. Box 1017
Bismarck, ND 58502

RE: EPA Comments on the Final Environmental Impact Statement for the Arkansas Valley Conduit and Long-Term Excess Capacity Master Contract, CEQ # 20130245

Dear Ms. Snortland:

The U.S. Environmental Protection Agency Region 8 (EPA) has reviewed the U.S. Bureau of Reclamation's (Reclamation's) Final Environmental Impact Statement (Final EIS) for the Arkansas Valley Conduit (AVC) and Long-Term Excess Capacity Master Contract. Our review was conducted in accordance with EPA's responsibilities under Section 102 of the National Environmental Policy Act (NEPA), 42 U.S.C. § 4332(2)(c), and Section 309 of the Clean Air Act, 42 U.S.C. § 7609. Section 309 of the Clean Air Act directs EPA to review and comment in writing on the environmental impacts of any major federal agency action.

The EPA appreciates Reclamation's willingness to engage with us throughout development of the Draft and Final EISs in response to our comments and concerns. The Final EIS includes additional analysis and clarification in response to our comments on water quality and aquatic life in the Fryingpan River watershed, the air quality and hazardous materials memos, and aerial maps. This EIS utilizes menus, electronic bookmarking and formatting particularly well, increasing information accessibility and enhancing the readers' ability to find specific information. We support this project's examination of means to improve public health protection by reducing dependence on poor quality drinking water sources for 14 of the AVC participants that have been or currently are under enforcement orders from the Colorado Department of Public Health and Environment. Our remaining comments on the Final EIS are intended to look forward toward assuring that predicted resource impacts are understood and successfully mitigated as the project moves through the more specific design and implementation phases.

Mitigation for Aquatic Life

We recommend that the ROD task Reclamation and the Environmental Review Team (ERT) with the developing enough detail around the proposed mitigation to assure that the effects to aquatic

resources associated with reduced flows in the Arkansas River below Pueblo Reservoir will be offset. Specific details that would be helpful to identify include: mitigation objectives for offsetting the project effects, an environmental baseline against which effects will be measured, the thresholds that would trigger additional preventative action, and the process by which Reclamation will continue to coordinate with the ERT to ensure mitigation is occurring effectively after these components are established. The Final EIS describes the streamflow impacts in the Arkansas River below Pueblo Reservoir and aquatic life impacts in Holbrook Reservoir as moderate, greater than 10%, when compared to the No Action alternative of the preferred alternative. When compared to existing conditions, the project is predicted to cause monthly flow reductions of 15.5 to 28.6% in the spring, fall and winter of normal years (Appendix D.4).

Specifically, it is unclear whether the two aquatic life mitigation measures for the Arkansas River below Pueblo Reservoir will offset the predicted impacts. We therefore recommend post-project evaluation of mitigation effectiveness be included for these measures as outlined above. First, Reclamation will provide $50,000 for habitat improvements downstream from Pueblo Reservoir to mitigate moderate streamflow effects and minor aquatic life effects during low-flow periods in the Arkansas River. Second, during low-flow periods in the Arkansas River associated with the Master Contract, Reclamation will limit excess capacity contract operations when streamflow is less than 50 cfs, as measured by adding streamflow at the Arkansas River above Pueblo gage to fish hatchery return flows from the current hatchery discharge point. It appears that 50 cfs is a minimal flow rarely experienced under current river operations and this mitigation measure therefore may not often be triggered. Please consider whether designating a higher minimum flow trigger could serve as mitigation for minor (normal- to average-year) and moderate (dry-year) adverse effects to water quality (total dissolved solids, sulfate, uranium, nutrients, and chronic low flows for La Junta wastewater treatment plant) as well as for aquatic life impacts.

We recommend the ERT also evaluate whether mitigation for effects to Holbrook Reservoir, and specifically mitigation beyond fish stocking such as habitat improvement in the form of increased cover and/or outlet design to minimize fish loss at Pueblo Reservoir, could offer a sustainable offset to the project's aquatic life impacts. All alternatives, except the JUP North Alternative would result in moderate adverse effects to aquatic resources in Holbrook Reservoir from decreases in storage, elevation, and surface area of up to 67 percent from June through November during normal and dry years compared to the No Action Alternative (p. 4-99, Appendix H.3). The Final EIS includes rationale that suggests mitigation at Holbrook Reservoir is not necessary because the effects are indirect (Colorado Spring's operations are sensitive to small changes in streamflow) and that the actual changes are small (although the percent change is large). While these are possible limitations to the effectiveness and feasibility of some mitigation measures, we encourage continued consideration of mitigation for the identified Holbrook Reservoir impacts.

Environmental Review Team

The Final EIS indicates that the ERT is responsible for advising Reclamation regarding its implementation of mitigation commitments and evaluating whether any changes to the preferred alternative warrant additional adaptive management or environmental compliance (pp. 4-1, 4-77). The ERT is expected to function through the final design phase and for one year after AVC and/or

Master Contract operations begin. Use of an ERT is valuable and could also provide assurance that the project's effects are mitigated if its role is expanded to include both assessment of the effectiveness of mitigation and advice regarding opportunities to adaptively manage those measures. Given the variability in flow conditions across years and the benefit of evaluating whether mitigation is effective under those differing conditions, more than one year of review appears necessary to evaluate mitigation effectiveness. We therefore recommend that the ERT continue to function for five years after the project commencement in order to evaluate project effects.

Effects Analysis

Where the No Action alternative does not represent an existing condition, we continue to consider it important that future EISs include an assessment of impacts against the existing condition baseline as well as against the No Action. In this case, the No Action alternative includes actions that would meet the AVC project purpose and need and, therefore, does not represent existing conditions in some instances. We recognize that this Final EIS does evaluate one important resource, aquatic life impacts, against existing conditions. In our experience, it is easier and sometimes more suitable to understand a project's impacts with comparison against existing conditions.

We appreciate the opportunity to participate in the review of the EIS. If we may provide further explanation of our comments during this stage of your planning process, please contact Maggie Pierce, Lead NEPA Reviewer, at 303-312-6550.

Sincerely,

Suzanne J. Bohan
Director, NEPA Compliance and Review Program
Office of Ecosystems Protection and Remediation